

REMARKS

By this paper, claims 3-11 are amended. No claims are added or cancelled. Accordingly, claims 3-12, 15-23, and 29 are all of the pending claims. In view of the foregoing amendments and the following remarks, reconsideration and allowance of all the pending claims is anticipated.

Examiner Interview

Applicant thanks the Examiner for the courtesy shown to Applicant's representative in the telephonic Examiner Interview conducted August 10, 2006. As is reflected in the Interview Summary mailed August 14, 2006, in the Interview the Examiner agreed to withdraw the finality of the 7/14/2006 Office Action. Accordingly, Applicant has drafted this response as if the 7/14/2006 Office Action were originally issued as a non-final Office Action.

Rejections under 35 U.S.C. § 103

The Examiner has rejected claims 3 and 5 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,131,237 to Kasper *et al.* ("Kasper") in view of U.S. Patent No. 4,982,863 to Skillius ("Skillius") and U.S. Patent No. 5,226,553 to Fiore ("Fiore"). Applicant traverses these rejections at least on the grounds that Kaspar is not analogous art for the purposes of 35 U.S.C. § 103(a).

A reference constitutes non-analogous art for the purposes of 35 U.S.C. § 103 only if it is from the same field of endeavor as the claimed invention, or if it is "reasonably pertinent to the particular problem with which the inventor was involved." *Cross Medical Products, Inc. v. Medtronic Sofamor Danek, Inc.*, 424 F.3d 1293, 76 U.S.P.Q.2d 1662 (Fed.Cir. 2005)(citation omitted).

The field of endeavor of claims 3 and 5 is recited as "a toolbox." In contrast, the disclosure of Kasper is specifically drawn to "an upright extraction cleaning machine having...an inline block heater, an oxidizing agent in the cleaning solution, or an oxidizing agent in conjunction with an activating agent." See, Kasper, column 1. Thus, the claimed invention and the disclosure of Kasper are from different fields of endeavor.

Additionally, the portion of Kasper relied on by the Examiner, which illustrates a liquid storage tank for storing water within the disclosed extraction cleaning machine until the liquid is drained from the tank by a valve, heated, and applied to a surface to be cleaned. The liquid storage tank would not have been reasonably pertinent to the design of a toolbox for storing and accessing items such as work tools (e.g., hammers, drills, screwdrivers, wrenches, etc.) and work accessories (e.g., nails, screws, nuts, bolts, etc.). Therefore, Kasper constitutes non-analogous art for the purposes of this application. For at least this reason, the rejection of claims 3 and 5 based on the combination of Kasper, Skillius, and Fiore is legally improper and must be withdrawn.

Allowable Subject Matter

Applicant thanks the Examiner for the allowance of claims 12, 15-23, and 29, and acknowledges the indication of the Examiner that claims 4 and 6-11 would be allowable if they were to be rewritten in independent form. However, based on the amendments and remarks presented above, Applicant believes that all of the pending claims are in condition for allowance and has therefore declined to rewrite claims 4 and 6-11 in independent form at this time.

CONCLUSION

Having addressed each of the foregoing rejections, it is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, the application is in condition for allowance. Notice to that effect is anticipated.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

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By:

Respectfully submitted,

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